

AMENDED IN ASSEMBLY MARCH 30, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2757

Introduced by Assembly Members Gonzalez, Bonta, ~~Cristina Garcia~~, *Cristina Garcia*, and Roger Hernández

(Principal coauthor: Senator Hall)

(Coauthors: Assembly Members *Burke*, Calderon, Campos, Chiu, Chu, Gipson, Jones-Sawyer, Lopez, McCarty, Medina, Santiago, ~~Mark Stone~~, *Mark Stone*, Thurmond, and Ting)

(Coauthors: Senators Beall, Block, Hancock, Lara, Leno, Liu, and Mitchell)

February 19, 2016

An act to amend Section 554 of, and to add Chapter 6 (commencing with Section 857) to Part 2 of Division 2 of, the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2757, as amended, Gonzalez. ~~Agricultural Workers~~: *workers*: wages, hours, and working conditions.

Existing law sets wage, hour, meal break requirements, and other working conditions for employees and requires an employer to pay overtime wages as specified to an employee who works in excess of a workday or workweek, as defined, and imposes criminal penalties for the violation of these requirements. Existing law exempts agricultural employees from these requirements. *Under existing law, the function of the Department of Industrial Relations is to, among other things, foster, promote, and develop the welfare of the wage earners of California, to improve their working conditions, and to advance their opportunities for profitable employment.*

This bill would remove the exemption for agricultural employees regarding hours, meal breaks, and other working conditions, including specified wage ~~requirements~~ *requirements*, and would create a schedule that would ~~phase-in~~ *phase in* overtime requirements for agricultural workers, as defined, over the course of 4 years, from 2017 to 2020, inclusive. *Beginning January 1, 2020, the bill would require any work performed by a person, employed in an agricultural occupation, in excess of 12 hours in one day to be compensated at the rate of no less than twice the employee's regular rate of pay. The bill would require the Department of Industrial Relations to update a specified wage order for consistency with these provisions.*

The bill would create a state-mandated local program by including agricultural employees as a class of employees protected by criminal penalties under existing law.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 554 of the Labor Code is amended to
2 read:
3 554. (a) Sections 551 and 552 do not apply to cases of
4 emergency or to work performed in the protection of life or
5 property from loss or destruction, or to any common carrier
6 engaged in or connected with the movement of trains. Nothing in
7 this chapter shall be construed to prevent an accumulation of days
8 of rest when the nature of the employment reasonably requires
9 that the employee work seven or more consecutive days, if in each
10 calendar month the employee receives days of rest equivalent to
11 one day's rest in seven. The requirement respecting the equivalent
12 of one day's rest in seven shall apply, notwithstanding the other
13 provisions of this chapter relating to collective bargaining
14 agreements, where the employer and a labor organization
15 representing employees of the employer have entered into a valid

1 collective bargaining agreement respecting the hours of work of
2 the employees, unless the agreement expressly provides otherwise.

3 (b) In addition to the exceptions specified in subdivision (a),
4 the Chief of the Division of Labor Standards Enforcement may,
5 when in his or her judgment hardship will result, exempt any
6 employer or employees from the provisions of Sections 551 and
7 552.

8 SEC. 2. Chapter 6 (commencing with Section 857) is added
9 to Part 2 of Division 2 of the Labor Code, to read:

10
11 CHAPTER 6. AGRICULTURE
12

13 857. This chapter shall be known and may be cited as the
14 Phase-In Overtime for Agricultural Workers Act of 2016.

15 858. The Legislature finds and declares all of the following:

16 (a) Agricultural employees engage in back-breaking work every
17 day.

18 (b) Few occupations in today's America are as physically
19 demanding and exhausting as agricultural work.

20 (c) In 1938, the United States Congress enacted the federal Fair
21 Labor Standards Act of 1938 (29 U.S.C. Sec. 201 et seq.), which
22 excluded agricultural workers from wage protections and overtime
23 compensation requirements.

24 (d) It is the intent of the Legislature to enact the Phase-In
25 Overtime for Agricultural Workers Act of 2016 to provide any
26 person employed in an agricultural occupation in California, as
27 defined in Order No. 14-2001 of the Industrial Welfare
28 Commission (revised 07-2014) with an opportunity to earn
29 overtime compensation under the same standards as millions of
30 other Californians.

31 859. For purposes of this chapter, "employed in an agricultural
32 occupation" has the same meaning as in Order No.14-2001 of the
33 Industrial Welfare Commission (revised 07-2014).

34 860. Notwithstanding any other provision of law, including
35 Chapter 1 (commencing with Section 500):

36 (a) Commencing July 1, 2017, any person employed in an
37 agricultural occupation shall not be employed more than nine and
38 one-half hours in any one workday or work in excess of 55 hours
39 in any one workweek, unless the employee receives one and
40 one-half times ~~such~~ *that* employee's regular rate of pay for all

1 hours worked over nine and one-half hours in any ~~workday~~.
2 *workday or over 55 hours in any workweek.*

3 (b) Commencing January 1, 2018, any person employed in an
4 agricultural occupation shall not be employed more than nine hours
5 in any one workday or work in excess of 50 hours in any one
6 workweek, unless the employee receives one and one-half times
7 ~~such that~~ employee's regular rate of pay for all hours worked over
8 nine hours in any ~~workday~~. *workday or over 50 hours in any*
9 *workweek.*

10 (c) Commencing January 1, 2019, any person employed in an
11 agricultural occupation shall not be employed more than eight and
12 one-half hours in any one workday or work in excess of 45 hours
13 in any one workweek, unless the employee receives one and
14 one-half times ~~such that~~ employee's regular rate of pay for all
15 hours worked over eight and one-half hours in any ~~workday~~.
16 *workday or over 45 hours in any workweek.*

17 (d) Commencing January 1, 2020, any person employed in an
18 agricultural occupation shall not be employed more than eight
19 hours in any one workday or work in excess of 40 hours in any
20 one workweek, unless the employee receives one and one-half
21 times ~~such that~~ employee's regular rate of pay for all hours worked
22 over eight hours in any ~~workday~~. *workday or over 40 hours in any*
23 *workweek.*

24 861. Except as set forth in Section ~~860~~, *860 and subdivision*
25 *(a) of Section 862*, all other provisions of Chapter 1 (commencing
26 with Section 500) regarding compensation for overtime work shall
27 apply to workers in an agricultural occupation commencing January
28 1, 2017.

29 862. *(a) Beginning January 1, 2020, and consistent with*
30 *Section 510, any work performed by a person, employed in an*
31 *agricultural occupation, in excess of 12 hours in one day shall be*
32 *compensated at the rate of no less than twice the employee's*
33 *regular rate of pay.*

34 *(b) Consistent with Section 861, notwithstanding subdivision*
35 *(a), the other provisions of Section 510 shall be applicable to*
36 *workers in an agricultural occupation commencing January 1,*
37 *2017.*

38 863. *The Department of Industrial Relations shall update Wage*
39 *Order No. 14-2001 to be consistent with this chapter.*

1 SEC. 3. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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